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SUBJECT: LOCAL GOVERNMENT POLLS STILL UNCERTAIN

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¶1. (SBU) Summary: Plans for local government elections in Malawi, delayed for a year and a half and now scheduled for May/June 2007, are still tentative, though there is slow movement in the right direction. End Summary.

Political Will?

¶2. (SBU) Mandated by the constitution, the local government structure consists of twenty-eight district, three city, one municipal and eight town assemblies. Each assembly has a commissioner or executive, appointed by the president, who manages the day-to-day operations of the local governments. The assemblies have limited authority to make local laws, including the imposition of fees and levies for local services. They are also a major key to the decentralization process that the government has been pursuing with funding from the World Bank and the German government. The GOM plans to devolve significant responsibility for managing health, education and agricultural programs to the local governments over the next five years. In the absence of assemblies, the commissioners/executives run the local administration, and report directly to the Ministry of Local Government.

¶3. (SBU) Local governments were first elected into office in November of 2000, and served a full term until 2005. Elections for new assemblies, which were constitutionally mandated to take place in May of 2005, have been pushed off numerous times by the government. The initial delay was due to a serious hunger crisis that demanded all available resources. Since that time, Malawi enjoyed a good harvest in the last growing season and the GOM's financial situation has greatly improved. Though various reasons have been given for the continued delay, both the President and the Minister of Finance have privately expressed their lack of faith in local governments in general, and have outlined their belief that supporting the local government activities (salaries, offices, etc.) would put too heavy of a burden on the national budget. However, pressure from the donors, the opposition parties, and civil society forced the government to publicly promise to hold the elections in "the first part" of 2007, according to a speech made by the Minister of Finance on the floor of Parliament this past June. Thus, the GOM is now looking to donors to fund some of the recurring

costs of the local governments.

13. (SBU) To that end the Minister of Finance recently called donors together to ask for financial assistance to cover the costs of running the local governments, once they are elected. He hinted that if funds were not made available by donors, the entire plan for devolution of power to local governments might be reconsidered by the GOM. Even if donors come up with the funds to support the local governments, it will be a stretch to maintain the current timeline for local polls. The Malawi Electoral Commission (MEC) faces a number of technical challenges in preparing for the elections--such as completely overhauling the voter rolls and redoing a number of ward boundaries--and is already two months behind the timeline which they developed. Unless the GOM moves quickly to back the process, it is possible that elections, if they take place at all, will have to be pushed back once again.

Hurdles Ahead for MEC

14. (U) A host of challenges face the MEC in its attempt to organize the elections for next year. First, though legally required to have at least six Election Commissioners to conduct business, there are currently on two (our of eight) commissioner seats filled. Filling the other six seats awaits candidate selection and appointment by the President, in consultation with Parliament. Until there are at least six seats filled the MEC cannot set the date of elections, re-design wards, or carry out many of their preparations for the election for fear that the results will be challenged after-the-fact on claims that the MEC acted unconstitutionally.

15. (U) A second issue that the MEC faces revolves around the

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constitutionality of having the polls in 2007. The constitution of Malawi stipulates that local government elections take place the year after general elections, a provision that the government already violated. In order to conduct the elections in 2007, the constitution must be amended to allow for the elections to be held at another time, aside from one year after general elections. The MEC is again relying on government to pass this piece of legislation out of Cabinet and through Parliament. If this does not happen, again, the polls could be legally challenged as being unconstitutional.

16. (U) Finally, the MEC must ensure that the government comes through on its pledged financial support. Though Parliament passed a budget allocating one billion kwacha (\$7.2 million) to the MEC for the elections, the actual disbursement of this money is not guaranteed. The Treasury, under the administration of the Minister of Finance, must release the funds to the MEC to conduct their activities. In last year's budget MEC was allocated funds for elections that were never released, leaving the line-item 'un-funded'. MEC, who is also relying heavily on donor support to fund the elections, plans to submit their cash-flow and official request for funds-transfer within the coming weeks.

Comment

17. (SBU) There is skepticism about local government at the highest level of the Malawi Government. This skepticism is based on concerns about the cost of the elected counselors, their qualifications and education, and a sense that the work assigned to the elected councils would at best duplicate and at worst interfere with the responsibilities of the members of Parliament, the administrative duties of the colonial-hangover district officer system, and the role of the &traditional authorities,8 a government-supported

system of local chiefs and village heads. Sometimes this skepticism is expressed as a series of problems to be solved (we need to find the money for the councils, we need to put minimum educational requirements in place, we need a law to define clearly what they do, etc.) and at other times as a more fundamental concern about loss of control and doubts about the very concept of democracy at the local level (we need to change the constitution to eliminate this requirement). (fortunately, there is no/no backsliding on the question of democracy at the national level.)

18. (SBU) Nevertheless, the constitution of Malawi requires the existence of elected local governments, and decentralization legislation requires that they manage certain aspects of social services at the local level. Failing to elect counselors means that the local councils are entirely in the hands of the abovementioned existing institutions, since MPs, district officials, and traditional authorities sit on the district councils, albeit in a non-voting capacity. This may be attractive to the &control freaks8 who populate the central ministries in Lilongwe, but it is antithetical to the existing constitutional scheme. In our view, there is very little chance that the national assembly could be persuaded to abolish the elected local councils entirely by constitutional amendment, since the assembly adopted without objection a &sense8 motion in the last session calling on government to hold the elections as soon as possible. Thus the skeptics are caught between the constitution and a committed national assembly.

19. (SBU) Where the absence of local government really hurts, however, is in amplifying the &democracy deficit8 in Malawi. There are only two rungs to elected political office at present, and the lowest is a seat in the national assembly. (Of course, the second is the grand prize of the presidency.) Therefore to fund entry to electoral politics in this country, it,s necessary to be rich, to have rich friends, or to have some other source of constituency-wide popularity. Functioning local bodies would provide the minor league tryouts for a new generation of competence-based political leadership, something badly needed in this country, if the problem of rent-seeking can be addressed. It is our intention, continuing to work with other partners, to encourage and facilitate the earliest possible election of local governing councils.

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